

REFERENCE TITLE: photo enforcement; rights of drivers

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

## **SB 1460**

Introduced by  
Senator Gorman

### **AN ACT**

AMENDING SECTIONS 28-101, 28-601 AND 28-654, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 21; AMENDING SECTIONS 28-1557 AND 28-1596, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-1602, 28-1603, 28-1604, 28-1605, 28-1606, 28-1607 AND 28-1608; AMENDING SECTION 28-3392, ARIZONA REVISED STATUTES; RELATING TO PHOTO ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Intent

3 Due to the increased use of photo enforcement in Arizona, additional  
4 protections under the law are required to protect the innocent and ensure  
5 that proper evidence collection procedures are in use to preserve  
6 constitutional rights of free Americans. Additionally, if the goal of photo  
7 enforcement is increased safety on the roadways, and not revenue creation,  
8 then the laws governing the use of photo enforcement should reflect that  
9 goal. Safety is only accomplished by traffic slowing equally to avoid  
10 erratic measures by drivers. This is accomplished only through proper signage  
11 and disclosure to drivers to give them an opportunity to slow to a safe  
12 speed.

13 Sec. 2. Section 28-101, Arizona Revised Statutes, is amended to read:

14 28-101. Definitions

15 In this title, unless the context otherwise requires:

16 1. "Alcohol" means any substance containing any form of alcohol,  
17 including ethanol, methanol, propynol and isopropynol.

18 2. "Alcohol concentration" if expressed as a percentage means either:

19 (a) The number of grams of alcohol per one hundred milliliters of  
20 blood.

21 (b) The number of grams of alcohol per two hundred ten liters of  
22 breath.

23 3. "All-terrain vehicle" means a motor vehicle that satisfies all of  
24 the following:

25 (a) Is designed primarily for recreational nonhighway all-terrain  
26 travel.

27 (b) Is fifty or fewer inches in width.

28 (c) Has an unladen weight of eight hundred pounds or less.

29 (d) Travels on three or more low pressure tires.

30 (e) Has a seat to be straddled by the operator and handlebars for  
31 steering control.

32 (f) Is operated on a public highway.

33 4. "Authorized emergency vehicle" means any of the following:

34 (a) A fire department vehicle.

35 (b) A police vehicle.

36 (c) An ambulance or emergency vehicle of a municipal department or  
37 public service corporation that is designated or authorized by the department  
38 or a local authority.

39 (d) Any other ambulance, fire truck or rescue vehicle that is  
40 authorized by the department in its sole discretion and that meets liability  
41 insurance requirements prescribed by the department.

42 5. "Aviation fuel" means all flammable liquids composed of a mixture  
43 of selected hydrocarbons expressly manufactured and blended for the purpose  
44 of effectively and efficiently operating an internal combustion engine for

1 use in an aircraft but does not include fuel for jet or turbine powered  
2 aircraft.

3 6. "Bicycle" means a device, including a racing wheelchair, that is  
4 propelled by human power and on which a person may ride and that has either:

5 (a) Two tandem wheels, either of which is more than sixteen inches in  
6 diameter.

7 (b) Three wheels in contact with the ground, any of which is more than  
8 sixteen inches in diameter.

9 7. "Board" means the transportation board.

10 8. "Bus" means a motor vehicle designed for carrying sixteen or more  
11 passengers, including the driver.

12 9. "Business district" means the territory contiguous to and including  
13 a highway if there are buildings in use for business or industrial purposes  
14 within any six hundred feet along the highway, including hotels, banks or  
15 office buildings, railroad stations and public buildings that occupy at least  
16 three hundred feet of frontage on one side or three hundred feet collectively  
17 on both sides of the highway.

18 10. "Combination of vehicles" means a truck or truck tractor and  
19 semitrailer and any trailer that it tows but does not include a forklift  
20 designed for the purpose of loading or unloading the truck, trailer or  
21 semitrailer.

22 11. "Controlled substance" means a substance so classified under  
23 section 102(6) of the controlled substances act (21 United States Code  
24 section 802(6)) and includes all substances listed in schedules I through V  
25 of 21 Code of Federal Regulations part 1308.

26 12. "Conviction" means:

27 (a) An unvacated adjudication of guilt or a determination that a  
28 person violated or failed to comply with the law in a court of original  
29 jurisdiction or by an authorized administrative tribunal.

30 (b) An unvacated forfeiture of bail or collateral deposited to secure  
31 the person's appearance in court.

32 (c) A plea of guilty or no contest accepted by the court.

33 (d) The payment of a fine or court costs.

34 13. "County highway" means a public road constructed and maintained by  
35 a county.

36 14. "Dealer" means a person who is engaged in the business of buying,  
37 selling or exchanging motor vehicles, trailers or semitrailers and who has an  
38 established place of business.

39 15. "Department" means the department of transportation acting directly  
40 or through its duly authorized officers and agents.

41 16. "Director" means the director of the department of transportation.

42 17. "Drive" means to operate or be in actual physical control of a  
43 motor vehicle.

44 18. "Driver" means a person who drives or is in actual physical control  
45 of a vehicle.

1        19. "Driver license" means a license that is issued by a state to an  
2 individual and that authorizes the individual to drive a motor vehicle.

3        20. "Electric personal assistive mobility device" means a  
4 self-balancing two nontandem wheeled device with an electric propulsion  
5 system that limits the maximum speed of the device to fifteen miles per hour  
6 or less and that is designed to transport only one person.

7        21. "Farm tractor" means a motor vehicle designed and used primarily as  
8 a farm implement for drawing implements of husbandry.

9        22. "Foreign vehicle" means a motor vehicle, trailer or semitrailer  
10 that is brought into this state other than in the ordinary course of business  
11 by or through a manufacturer or dealer and that has not been registered in  
12 this state.

13       23. "Golf cart" means a motor vehicle that has not less than three  
14 wheels in contact with the ground, that has an unladen weight of less than  
15 one thousand eight hundred pounds, that is designed to be and is operated at  
16 not more than twenty-five miles per hour and that is designed to carry not  
17 more than four persons including the driver.

18       24. "Hazardous material" means a material, and its mixtures or  
19 solutions, that the United States department of transportation determines  
20 under 49 Code of Federal Regulations is, or any quantity of a material listed  
21 as a select agent or toxin under 42 Code of Federal Regulations part 73 that  
22 is, capable of posing an unreasonable risk to health, safety and property if  
23 transported in commerce and that is required to be placarded or marked as  
24 required by the department's safety rules prescribed pursuant to chapter 14  
25 of this title.

26       25. "Implement of husbandry" means a vehicle designed primarily for  
27 agricultural purposes and used exclusively in the conduct of agricultural  
28 operations, including an implement or vehicle whether self-propelled or  
29 otherwise that meets all of the following conditions:

30       (a) Is used exclusively for carrying products of farming from one part  
31 of a farm to another part of the same farm or from one farm to another farm.

32       (b) Is used solely for agricultural purposes including the preparation  
33 or harvesting of cotton, alfalfa, grains and other farm crops.

34       (c) Is only incidentally operated or moved on a highway whether as a  
35 trailer or self-propelled unit.

36       26. "Limousine" means a motor vehicle providing prearranged ground  
37 transportation service for an individual passenger, or a group of passengers,  
38 that is arranged in advance or is operated on a regular route or between  
39 specified points and includes ground transportation under a contract or  
40 agreement for services that includes a fixed rate or time and is provided in  
41 a motor vehicle with a seating capacity not exceeding fifteen passengers  
42 including the driver.

43       27. "Livery vehicle" means a motor vehicle that:

44       (a) Has a seating capacity not exceeding fifteen passengers including  
45 the driver.

1 (b) Provides passenger services for a fare determined by a flat rate  
2 or flat hourly rate between geographic zones or within a geographic area.

3 (c) Is available for hire on an exclusive or shared ride basis.

4 (d) May do any of the following:

5 (i) Operate on a regular route or between specified places.

6 (ii) Offer prearranged ground transportation service as defined in  
7 section 28-141.

8 (iii) Offer on demand ground transportation service pursuant to a  
9 contract with a public airport, licensed business entity or organization.

10 28. "Local authority" means any county, municipal or other local board  
11 or body exercising jurisdiction over highways under the constitution and laws  
12 of this state.

13 29. "Manufacturer" means a person engaged in the business of  
14 manufacturing motor vehicles, trailers or semitrailers.

15 30. "Moped" means a bicycle that is equipped with a helper motor if the  
16 vehicle has a maximum piston displacement of fifty cubic centimeters or less,  
17 a brake horsepower of one and one-half or less and a maximum speed of  
18 twenty-five miles per hour or less on a flat surface with less than a one per  
19 cent grade.

20 31. "Motor driven cycle" means a motorcycle, including every motor  
21 scooter, with a motor that produces not more than five horsepower.

22 32. "Motor vehicle":

23 (a) Means either:

24 (i) A self-propelled vehicle.

25 (ii) For the purposes of the laws relating to the imposition of a tax  
26 on motor vehicle fuel, a vehicle that is operated on the highways of this  
27 state and that is propelled by the use of motor vehicle fuel.

28 (b) Does not include a motorized wheelchair, an electric personal  
29 assistive mobility device or a motorized skateboard. For the purposes of this  
30 subdivision:

31 (i) "Motorized skateboard" means a self-propelled device that has a  
32 motor, a deck on which a person may ride and at least two tandem wheels in  
33 contact with the ground.

34 (ii) "Motorized wheelchair" means a self-propelled wheelchair that is  
35 used by a person for mobility.

36 33. "Motor vehicle fuel" includes all products that are commonly or  
37 commercially known or sold as gasoline, including casinghead gasoline,  
38 natural gasoline and all flammable liquids, and that are composed of a  
39 mixture of selected hydrocarbons expressly manufactured and blended for the  
40 purpose of effectively and efficiently operating internal combustion  
41 engines. Motor vehicle fuel does not include inflammable liquids that are  
42 specifically manufactured for racing motor vehicles and that are distributed  
43 for and used by racing motor vehicles at a racetrack, use fuel as defined in  
44 section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or

1 the mixture created at the interface of two different substances being  
2 transported through a pipeline, commonly known as transmix.

3 34. "Motorcycle" means a motor vehicle that has a seat or saddle for  
4 the use of the rider and that is designed to travel on not more than three  
5 wheels in contact with the ground but excluding a tractor and a moped.

6 35. "Neighborhood electric vehicle" means a self-propelled electrically  
7 powered motor vehicle to which all of the following apply:

8 (a) The vehicle is emission free.

9 (b) The vehicle has at least four wheels in contact with the ground.

10 (c) The vehicle complies with the definition and standards for low  
11 speed vehicles set forth in federal motor vehicle safety standard 500 and 49  
12 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

13 36. "Nonresident" means a person who is not a resident of this state as  
14 defined in section 28-2001.

15 37. "Off-road recreational motor vehicle" means a motor vehicle that is  
16 designed primarily for recreational nonhighway all-terrain travel and that is  
17 not operated on a public highway. Off-road recreational motor vehicle does  
18 not mean a motor vehicle used for construction, building trade, mining or  
19 agricultural purposes.

20 38. "Operator" means a person who drives a motor vehicle on a highway,  
21 who is in actual physical control of a motor vehicle on a highway or who is  
22 exercising control over or steering a vehicle being towed by a motor vehicle.

23 39. "Owner" means:

24 (a) A person who holds the legal title of a vehicle.

25 (b) If a vehicle is the subject of an agreement for the conditional  
26 sale or lease with the right of purchase on performance of the conditions  
27 stated in the agreement and with an immediate right of possession vested in  
28 the conditional vendee or lessee, the conditional vendee or lessee.

29 (c) If a mortgagor of a vehicle is entitled to possession of the  
30 vehicle, the mortgagor.

31 40. "Pedestrian" means any person afoot. A person who uses an electric  
32 personal assistive mobility device or a manual or motorized wheelchair is  
33 considered a pedestrian unless the manual wheelchair qualifies as a  
34 bicycle. For the purposes of this paragraph, "motorized wheelchair" means a  
35 self-propelled wheelchair that is used by a person for mobility.

36 41. "PHOTO ENFORCEMENT SYSTEM" MEANS A DEVICE SUBSTANTIALLY CONSISTING  
37 OF A RADAR UNIT OR SENSOR LINKED TO A CAMERA OR OTHER RECORDING DEVICE THAT  
38 PRODUCES ONE OR MORE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPES OR DIGITAL OR  
39 OTHER RECORDED IMAGES OF A VEHICLE'S LICENSE PLATE FOR THE PURPOSE OF  
40 IDENTIFYING VIOLATORS OF CHAPTER 3, ARTICLES 3 AND 6 OF THIS TITLE.

41 ~~41.~~ 42. "Power sweeper" means an implement, with or without motive  
42 power, that is only incidentally operated or moved on a street or highway and  
43 that is designed for the removal of debris, dirt, gravel, litter or sand  
44 whether by broom, vacuum or regenerative air system from asphaltic concrete

1 or cement concrete surfaces, including parking lots, highways, streets and  
2 warehouses, and a vehicle on which the implement is permanently mounted.

3 ~~42.~~ 43. "Public transit" means the transportation of passengers on  
4 scheduled routes by means of a conveyance on an individual passenger  
5 fare-paying basis excluding transportation by a sight-seeing bus, school bus  
6 or taxi or a vehicle not operated on a scheduled route basis.

7 ~~43.~~ 44. "Reconstructed vehicle" means a vehicle that has been  
8 assembled or constructed largely by means of essential parts, new or used,  
9 derived from vehicles or makes of vehicles of various names, models and types  
10 or that, if originally otherwise constructed, has been materially altered by  
11 the removal of essential parts or by the addition or substitution of  
12 essential parts, new or used, derived from other vehicles or makes of  
13 vehicles. For the purposes of this paragraph, "essential parts" means  
14 integral and body parts, the removal, alteration or substitution of which  
15 will tend to conceal the identity or substantially alter the appearance of  
16 the vehicle.

17 ~~44.~~ 45. "Residence district" means the territory contiguous to and  
18 including a highway not comprising a business district if the property on the  
19 highway for a distance of three hundred feet or more is in the main improved  
20 with residences or residences and buildings in use for business.

21 ~~45.~~ 46. "Right-of-way" when used within the context of the regulation  
22 of the movement of traffic on a highway means the privilege of the immediate  
23 use of the highway. Right-of-way when used within the context of the real  
24 property on which transportation facilities and appurtenances to the  
25 facilities are constructed or maintained means the lands or interest in lands  
26 within the right-of-way boundaries.

27 ~~46.~~ 47. "School bus" means a motor vehicle that is designed for  
28 carrying more than ten passengers and that is either:

29 (a) Owned by any public or governmental agency or other institution  
30 and operated for the transportation of children to or from home or school on  
31 a regularly scheduled basis.

32 (b) Privately owned and operated for compensation for the  
33 transportation of children to or from home or school on a regularly scheduled  
34 basis.

35 ~~47.~~ 48. "Semitrailer" means a vehicle that is with or without motive  
36 power, other than a pole trailer, that is designed for carrying persons or  
37 property and for being drawn by a motor vehicle and that is constructed so  
38 that some part of its weight and that of its load rests on or is carried by  
39 another vehicle. For the purposes of this paragraph, "pole trailer" has the  
40 same meaning prescribed in section 28-601.

41 ~~48.~~ 49. "State" means a state of the United States and the District of  
42 Columbia.

43 ~~49.~~ 50. "State highway" means a state route or portion of a state  
44 route that is accepted and designated by the board as a state highway and  
45 that is maintained by the state.

~~50.~~ 51. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~51.~~ 52. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~52.~~ 53. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:

(a) Does not operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined primarily on the basis of the distance traveled.

~~53.~~ 54. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~54.~~ 55. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~55.~~ 56. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

~~56.~~ 57. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on a public highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

~~57.~~ 58. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

Sec. 3. Section 28-601, Arizona Revised Statutes, is amended to read:

28-601. Definitions

In this chapter, unless the context otherwise requires:

1. "Commercial motor vehicle" means a motor vehicle or combination of vehicles that is designed, used or maintained to transport passengers or property in the furtherance of a commercial enterprise, that is a commercial



1 motor vehicle as defined in section 28-5201 and that is not exempt from gross  
2 weight fees as prescribed in section 28-5432, subsection B.

3 2. "Controlled access highway" means a highway, street or roadway to  
4 or from which owners or occupants of abutting lands and other persons have no  
5 legal right of access except at such points only and in the manner determined  
6 by the public authority that has jurisdiction over the highway, street or  
7 roadway.

8 3. "Crosswalk" means:

9 (a) That part of a roadway at an intersection included within the  
10 prolongations or connections of the lateral lines of the sidewalks on  
11 opposite sides of the highway measured from the curbs or, in absence of  
12 curbs, from the edges of the traversable roadway.

13 (b) Any portion of a roadway at an intersection or elsewhere that is  
14 distinctly indicated for pedestrian crossing by lines or other markings on  
15 the surface.

16 4. "Escort vehicle" means a vehicle that is required pursuant to rules  
17 adopted by the department to escort motor vehicles or combinations of  
18 vehicles that require issuance of a permit pursuant to article 18 or 19 of  
19 this chapter for operation on the highways of this state.

20 5. "Explosives" means any chemical compound, mixture or device that is  
21 commonly used or intended for the purpose of producing an explosion and that  
22 is defined in 49 Code of Federal Regulations part 173.

23 6. "Flammable liquid" means any liquid that has a flash point of less  
24 than one hundred degrees Fahrenheit and that is defined in 49 Code of Federal  
25 Regulations section 173.120.

26 7. "Gross weight" means the weight of a vehicle without a load plus  
27 the weight of any load on the vehicle.

28 8. "Intersection" means the area embraced within the prolongation or  
29 connection of the lateral curb lines, or if none, the lateral boundary lines  
30 of the roadways of two highways that join one another at, or approximately  
31 at, right angles, or the area within which vehicles traveling on different  
32 highways joining at any other angle may come in conflict. If a highway  
33 includes two roadways thirty or more feet apart, each crossing of each  
34 roadway of the divided highway by an intersecting highway is a separate  
35 intersection. If the intersecting highway also includes two roadways thirty  
36 or more feet apart, each crossing of two roadways of the highways is a  
37 separate intersection.

38 9. "License" means any license, temporary instruction permit or  
39 temporary license issued under the laws of this state or any other state that  
40 pertain to the licensing of persons to operate motor vehicles.

41 10. "Motorized wheelchair" means any self-propelled wheelchair that is  
42 used by a person for mobility.

43 11. "Official traffic control device" means any sign, signal, marking  
44 or device that is not inconsistent with this chapter and that is placed or

erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

12. "Park", if prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

~~13. "Photo enforcement system" means a device substantially consisting of a radar unit or sensor linked to a camera or other recording device that produces one or more photographs, microphotographs, videotapes or digital or other recorded images of a vehicle's license plate for the purpose of identifying violators of articles 3 and 6 of this chapter.~~

13. "Pneumatic tire" means a tire in which compressed air is designed to support the load.

14. "Pole trailer" means a vehicle that is all of the following:

- (a) Without motive power.
- (b) Designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle.

(c) Used ordinarily for transporting long or irregularly shaped loads such as poles, pipes or structural members capable generally of sustaining themselves as beams between the supporting connections.

15. "Police officer" means an officer authorized to direct or regulate traffic or make arrests for violations of traffic rules or other offenses.

16. "Private road or driveway" means a way or place that is in private ownership and that is used for vehicular travel by the owner and those persons who have express or implied permission from the owner but not by other persons.

17. "Railroad" means a carrier of persons or property on cars operated on stationary rails.

18. "Railroad sign or signal" means a sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

19. "Railroad train" means a steam engine or any electric or other motor that is with or without cars coupled to the steam engine or electric or other motor and that is operated on rails.

20. "Roadway" means that portion of a highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways, roadway refers to any such roadway separately but not to all such roadways collectively.

21. "Safety zone" means the area or space that is both:

- (a) Officially set apart within a roadway for the exclusive use of pedestrians.
- (b) Protected or either marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

~~23.~~ 22. "Sidewalk" means that portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for the use of pedestrians.

~~24. "Solid tire" means a tire that both:~~

~~(a) Is made of rubber or other resilient material.~~

~~(b) Does not depend on compressed air for the support of the load.~~

~~25.~~ 23. "Stop", if required, means complete cessation from movement.

~~26.~~ 24. "Stop, stopping or standing", if prohibited, means any stopping or standing of an occupied or unoccupied vehicle, except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic control sign or signal.

~~27.~~ 25. "Through highway" means a highway or portion of a highway at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing and when stop signs are erected as provided in this chapter.

~~28.~~ 26. "Traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using a highway for purposes of travel.

~~29.~~ 27. "Traffic control signal" means a device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

~~30.~~ 28. "Truck" means a motor vehicle that is designed, used or maintained primarily for the transportation of property.

Sec. 4. Section 28-654, Arizona Revised Statutes, is amended to read:

28-654. Photo enforcement zones; signage; standards; citation dismissal

A. ~~Except as provided in subsection F of this section,~~ Every local authority or agency of this state using a photo enforcement system shall adopt standards and specifications that indicate to a person operating a motor vehicle that a photo enforcement system is present and operational. THIS SUBSECTION APPLIES TO BOTH MOBILE AND STATIONARY PHOTO ENFORCEMENT SYSTEMS USED ON ANY ROADWAY OR HIGHWAY.

B. The standards and specifications adopted pursuant to subsection A of this section shall include the following:

1. At least ~~two~~ THREE signs shall be placed in PLAIN SIGHT AND AT EYE LEVEL AT a location before a photo enforcement system. ONE SIGN SHALL BE IN A LOCATION THAT IS APPROXIMATELY SIX HUNDRED FEET BEFORE THE PHOTO ENFORCEMENT SYSTEM. One sign shall be in a location that is approximately three hundred feet before the photo enforcement system. ONE SIGN SHALL BE IN A LOCATION THAT IS APPROXIMATELY ONE HUNDRED FEET BEFORE THE PHOTO ENFORCEMENT SYSTEM. Placement of additional signs shall be more than ~~three~~ SIX hundred feet before a photo enforcement system to provide reasonable notice to a person that a photo enforcement system is present and operational.

1           2. Signs indicating a photo enforcement system shall be removed or  
2 covered when the photo enforcement system is no longer present or not  
3 operating.

4           3. EACH SIGN SHALL BE BRIGHTLY LIT OR MADE OF AN EASILY VIEWED  
5 REFLECTIVE MATERIAL.

6           4. EACH SIGN SHALL SPECIFICALLY STATE THE DISTANCE TO THE PHOTO  
7 ENFORCEMENT SYSTEM TO WARN DRIVERS OF A POSSIBLE SUDDEN SLOWING OF TRAFFIC  
8 AHEAD.

9           C. Signs erected by a local authority or agency of this state as  
10 prescribed in this section shall contain a yellow warning notice and  
11 correlate with and as far as possible conform to the system set forth in the  
12 most recent edition of the manual on uniform traffic control devices for  
13 streets and highways adopted by the director pursuant to section 28-641.

14           D. If the standards and specifications prescribed pursuant to this  
15 section are not in effect during the operation of a photo enforcement system,  
16 the court may dismiss any citation issued to a person who is identified by  
17 the use of the photo enforcement system.

18           E. During the time a vehicle containing photo enforcement equipment is  
19 being used to identify violators of this article and article 6 of this  
20 chapter, the rear of the vehicle shall be clearly marked to indicate that the  
21 vehicle is functioning as a photo enforcement vehicle. This subsection does  
22 not apply to a vehicle that does not contain a photo enforcement system and  
23 that is used by a law enforcement officer.

24           ~~F. Subsection B of this section does not apply to a mobile photo~~  
25 ~~enforcement vehicle during the time a mobile photo enforcement vehicle is~~  
26 ~~deployed on streets with a posted speed limit of forty miles per hour or~~  
27 ~~less.~~

28           F. IF A PERSON WHO RECEIVES A COMPLAINT OR NOTICE OF VIOLATION  
29 RESULTING FROM A PHOTO ENFORCEMENT SYSTEM IS ABLE TO SHOW EVIDENCE THAT  
30 PROPER SIGNAGE WAS NOT IN PLACE, THE COMPLAINT OR NOTICE OF VIOLATION IS  
31 INVALID AND SHALL BE REMOVED FROM THE COURT'S SYSTEM. THE ABILITY FOR THE  
32 PERSON TO RESPOND TO THE COMPLAINT OR NOTICE OF VIOLATION WITH EVIDENCE  
33 RELATING TO IMPROPER SIGNAGE SHALL BE INCLUDED IN THE ORIGINAL COMPLAINT OR  
34 NOTICE OF VIOLATION ISSUED AS AN OPTION. A PERSON WHO RECEIVES A COMPLAINT  
35 OR NOTICE OF VIOLATION SHALL SUBMIT THIS EVIDENCE TO THE ISSUING AGENCY. THE  
36 ISSUING AGENCY SHALL RESPOND, IN WRITING, TO CONFIRM RECEIPT OF THE EVIDENCE  
37 AND TO CONFIRM THAT THE COMPLAINT OR NOTICE OF VIOLATION HAS BEEN DISMISSED  
38 AND THAT NO FURTHER ACTION IS REQUIRED BY THE PERSON. THIS NOTIFICATION  
39 SHALL SERVE AS PROOF THAT THE MATTER HAS BEEN RESOLVED REGARDLESS OF PROPER  
40 FILING OR PROCESSING BY THE ISSUING AGENCY, THIS STATE, THE POLITICAL  
41 SUBDIVISIONS OF THIS STATE OR THE COURTS.

1       Sec. 5. Title 28, chapter 3, Arizona Revised Statutes, is amended by  
2 adding article 21, to read:

3               ARTICLE 21. PHOTO ENFORCEMENT SYSTEMS

4       28-1201. Photo enforcement systems; prohibitions

5       A PHOTO ENFORCEMENT SYSTEM, INCLUDING A STATE PHOTO ENFORCEMENT SYSTEM  
6 ESTABLISHED PURSUANT TO SECTION 41-1722, SHALL NOT:

7       1. USE ANY FLASH TECHNOLOGY AFTER SUNSET OR DURING ANY TIME OF DAY  
8 THAT MAY CAUSE ANY LEVEL OF TEMPORARY BLINDNESS OR DRIVER DISTRACTION TO ANY  
9 DRIVER OR A TRAINED EVASIVE DRIVING RESPONSE FROM ANY DRIVER IN THE VICINITY  
10 OF THE EQUIPMENT.

11       2. BE USED AS FOLLOWS:

12       (a) IN THE AREA BETWEEN A HIGHWAY ENTRANCE RAMP AND THE FIRST POSTED  
13 SPEED LIMIT SIGN.

14       (b) ON A PORTION OF THE ROADWAY OR HIGHWAY WHERE:

15       (i) THE POSTED SPEED LIMIT HAS DECREASED IN THE LAST SIX HUNDRED FEET.

16       (ii) THERE ARE VARIABLE OR TEMPORARY SPEED LIMIT SIGNS POSTED.

17       (iii) THE SPEED LIMIT HAS BEEN REDUCED IN THE LAST SIXTY DAYS.

18       (iv) ARTIFICIALLY LOW SPEED LIMITS ARE ESTABLISHED. FOR THE PURPOSES  
19 OF THIS ITEM, "ARTIFICIALLY LOW SPEED LIMITS" MEANS SPEED LIMITS THAT ARE  
20 BELOW THE SPEED THAT EIGHTY-FIVE PER CENT OF FREE FLOWING AND UNIMPEDED  
21 TRAFFIC IS TRAVELING ON THE ROADWAY OR HIGHWAY AS SUPPORTED BY A LEGITIMATE  
22 TRAFFIC ENGINEERING STUDY.

23       28-1202. Political subdivision revenues

24       A POLITICAL SUBDIVISION OF THIS STATE MAY NOT RECEIVE MORE THAN TEN PER  
25 CENT OF ITS REVENUES EACH FISCAL YEAR FROM CIVIL PENALTIES AND FINES  
26 RESULTING FROM COMPLAINTS OR NOTICES OF VIOLATION RESULTING FROM A PHOTO  
27 ENFORCEMENT SYSTEM.

28       Sec. 6. Section 28-1557, Arizona Revised Statutes, is amended to read:

29       28-1557. Traffic complaint form; photo enforcement required  
30       heading and evidence

31       A. Each traffic enforcement agency in this state shall use a uniform  
32 traffic ticket and complaint form for traffic complaints pursuant to the  
33 rules of procedure in traffic cases adopted by the supreme court of Arizona  
34 that ~~are~~ IS issued in books meeting the requirements of this article.

35       B. Each traffic complaint shall contain the following notice:

36       1. If you fail to appear as directed in this complaint on a criminal  
37 charge, a warrant will be issued for your arrest and your license will be  
38 suspended.

39       2. If you fail to appear as directed in this complaint on a civil  
40 traffic violation:

41       (a) A default judgment will be entered against you.

42       (b) A civil penalty will be imposed.

43       (c) Your license or nonresident operating privilege will be suspended  
44 until the civil penalty is paid.

C. The chief administrative officer of each traffic enforcement agency:

1. Is responsible for the issuance of the books.
2. Shall maintain a record of every book and each complaint contained in the book issued to individual members of the traffic enforcement agency.
3. Shall require and retain a receipt for each issued book.

D. ALL FORMS, LETTERS OR NOTICES, INCLUDING COMPLAINTS AND NOTICES OF VIOLATIONS, FOR PHOTO ENFORCEMENT SYSTEM DETECTED VIOLATIONS USED BY THIS STATE OR POLITICAL SUBDIVISIONS OF THIS STATE, OR THEIR AGENTS, SHALL CONTAIN THE FOLLOWING HEADING WRITTEN IN SIXTEEN POINT BOLDFACE TYPE AND IN CAPITAL LETTERS: "IMPORTANT INFORMATION REGARDING YOUR RIGHTS AS THE ACCUSED AS FOUND IN SECTIONS 28-654, 28-1557, 28-1596, 28-1602, 28-1603, 28-1604, 28-1605, 28-1606, 28-1607, 28-1608, 28-3392 AND TITLE 28, CHAPTER 3, ARTICLE 21, ARIZONA REVISED STATUTES. YOU ARE ENCOURAGED TO READ AND UNDERSTAND THESE RIGHTS AS PRESERVED BY THE 2009 PHOTO ENFORCEMENT ACCUSED BILL OF RIGHTS". ANY COMMUNICATION TO A PERSON, WHETHER SENT BY MAIL OR PROCESS SERVER, THAT DOES NOT INCLUDE THIS HEADING IS VOID AND THE COMPLAINT OR NOTICE OF VIOLATION SHALL BE DISMISSED AND THE PERSON'S DRIVING RECORD SHALL BE CLEARED OF ANY RECORD OF THE VIOLATION.

E. ALL COMMUNICATION RELATING TO A PHOTO ENFORCEMENT SYSTEM DETECTED VIOLATION TO A PERSON BY THIS STATE OR POLITICAL SUBDIVISIONS OF THIS STATE, OR THEIR AGENTS, OR A COURT SHALL INCLUDE ALL EVIDENCE OF THE VIOLATION, INCLUDING A REPORT BY THE SWORN OFFICER WHO ATTESTS TO HAVING REVIEWED THE EVIDENCE AND HAVING FIRST HAND KNOWLEDGE THAT, AT THE TIME OF THE EVENT FOR WHICH THE COMPLAINT OR NOTICE OF VIOLATION WAS ISSUED RESULTING FROM A PHOTO ENFORCEMENT SYSTEM, ALL PROPER SIGNAGE WAS IN PLACE AND VIEWABLE BY THE DRIVER ACCORDING TO SECTION 28-654 AND THAT THE PHOTO ENFORCEMENT SYSTEM WAS IN PROPER WORKING ORDER. ADDITIONALLY, THE SWORN OFFICER MUST INCLUDE THE OFFICER'S FULL NAME AND BADGE NUMBER AND THE DATE AND TIME OF THE LAST CALIBRATION OF THE PHOTO ENFORCEMENT SYSTEM BY A SWORN OFFICER. CALIBRATION REPORTS BY ANY THIRD PARTY THAT PROFITS OR RECEIVES REVENUE FROM USE OF THE PHOTO ENFORCEMENT SYSTEM, OR BOTH, EITHER DIRECTLY OR INDIRECTLY, ARE NOT ADMISSIBLE IN COURT OR FOR THE PURPOSES OF THIS SECTION.

Sec. 7. Section 28-1596, Arizona Revised Statutes, is amended to read:

28-1596. Traffic complaint; proceedings; photo enforcement

A. A person served with a civil traffic complaint shall:

1. Appear at the time and place stated in the complaint, or may appear before the time, if so authorized by the court, and on the directions contained in the complaint. THE COURT DATE ON A CIVIL TRAFFIC COMPLAINT RESULTING FROM A PHOTO ENFORCEMENT SYSTEM MUST BE SET MORE THAN SIXTY DAYS AFTER THE DATE THE PERSON RECEIVES EVIDENCE OF THE VIOLATION PURSUANT TO SECTION 28-1606.
2. Admit or deny the allegations of the complaint.
3. RECEIVE A CHANGE OF VENUE IF THE PERSON REQUESTS ONE.

1 B. Allegations not denied at the time of appearance are deemed  
2 admitted. A fee shall not be charged for the appearance.

3 C. If the allegations are admitted, the court shall enter judgment for  
4 the state and shall impose a civil penalty. The person may admit the  
5 allegations with an explanation, and then the court shall enter judgment for  
6 the state and impose a civil penalty. In determining the civil penalty, the  
7 court shall consider the explanation submitted.

8 D. If the person denies the allegations of the complaint the court  
9 shall set the matter for a hearing. The hearing is informal and without a  
10 jury. At the hearing, the state is required to prove the violation charged  
11 by a preponderance of the evidence. Technical rules of evidence do not  
12 apply, except for statutory provisions relating to privileged communications.  
13 If the person elects to be represented by counsel the person shall notify the  
14 court at least ten days before the hearing date. Hearings may be recorded.  
15 If the court finds in favor of the person, the court shall enter an order  
16 dismissing the allegation AND SHALL AWARD LEGAL COSTS TO THE PERSON. If the  
17 court finds in favor of the state, the court shall enter judgment for the  
18 state and shall impose a civil penalty.

19 E. If a resident of this state served with a civil traffic complaint  
20 alleging a violation of this title or if a nonresident served with a civil  
21 traffic complaint requiring suspension or revocation of a driver license  
22 under the laws of this state fails to appear at or before the time directed  
23 to appear or at the time set for a hearing by the court, the allegations in  
24 the complaint are deemed admitted, and the court shall enter judgment for  
25 this state, impose a civil penalty and report the judgment to the department.

26 F. A nonresident may satisfy the complaint served under subsection A  
27 by complying with the nonresident violator compact adopted by chapter 6,  
28 article 4 of this title, if applicable.

29 G. If a nonresident who is served with a civil traffic complaint that  
30 does not require a suspension or revocation of the nonresident's driver  
31 license pursuant to the laws of this state fails to appear at or before the  
32 time directed to appear or at the time set for a hearing by the court, the  
33 court shall report the nonappearance to the department pursuant to ~~the~~  
34 ~~provisions of~~ the nonresident violator compact adopted by chapter 6, article  
35 4 of this title.

36 H. IF A PERSON SENDS PAYMENT IN RESPONSE TO A COMPLAINT OR NOTICE OF  
37 VIOLATION RESULTING FROM A PHOTO ENFORCEMENT SYSTEM AND THE PERSON IS LATER  
38 DETERMINED TO BE NOT RESPONSIBLE OR INNOCENT, THE CIVIL PENALTY OR FINE MUST  
39 BE REFUNDED WITHIN TEN BUSINESS DAYS. THE REFUND SHALL INCLUDE EIGHTEEN PER  
40 CENT INTEREST.

41 I. IF A PERSON ATTENDS DEFENSIVE DRIVING SCHOOL PURSUANT TO SECTION  
42 28-3392 AS A RESULT OF A COMPLAINT OR NOTICE OF VIOLATION RESULTING FROM A  
43 PHOTO ENFORCEMENT SYSTEM AND THE PERSON IS LATER DEEMED TO BE NOT RESPONSIBLE  
44 OR INNOCENT OF THE VIOLATION, THE ISSUING AGENCY MUST REFUND THE COST OF THE  
45 DEFENSIVE DRIVING SCHOOL AND ANY RELATED FEES AND MUST REIMBURSE THE PERSON

FOR LOST WAGES, IF ANY, AS A RESULT OF THE PERSON ATTENDING THE SCHOOL. DEPARTMENT RECORDS MUST BE CORRECTED TO REFLECT THAT THE PERSON HAS NOT ATTENDED THE SCHOOL AND IS STILL ENTITLED TO ATTEND DEFENSIVE DRIVING SCHOOL PURSUANT TO SECTION 28-3392.

J. FOR PHOTO ENFORCEMENT SYSTEM DETECTED VIOLATIONS, IF EVIDENCE SHOWS, ON REVIEW BY THE ISSUING AGENCY OR ITS AGENT, THAT A PERSON WHO IS DRIVING THE VEHICLE IN THE PHOTO OR DIGITAL VERSATILE DISC IS NOT THE REGISTERED OWNER OF THE VEHICLE, THE COMPLAINT OR NOTICE OF VIOLATION SHALL NOT BE ENTERED, PROCESSED OR ISSUED. THIS EVIDENCE INCLUDES THE DRIVER BEING A DIFFERENT GENDER THAN THE OWNER, THE DRIVER'S FACE IN THE PICTURE BEING DIFFICULT TO IDENTIFY, THE DRIVER HAVING OBVIOUS PHYSICAL FEATURES THAT ARE DIFFERENT THAN THE PHOTO ON RECORD WITH THE DEPARTMENT OR A CORPORATE ENTITY OWNING THE VEHICLE.

K. A PRIVATE ENTITY SHALL NOT ISSUE A COMPLAINT OR NOTICE OF VIOLATION RESULTING FROM A PHOTO ENFORCEMENT SYSTEM. A PRIVATE ENTITY SHALL NOT COLLECT CIVIL PENALTIES, FINES OR FEES RESULTING FROM A COMPLAINT OR NOTICE OF VIOLATION RESULTING FROM A PHOTO ENFORCEMENT SYSTEM. A CONTRACT BETWEEN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE AND A PRIVATE ENTITY FOR A PHOTO ENFORCEMENT SYSTEM SHALL NOT BE EXERCISED OR WRITTEN IF THE CONTRACT CAUSES A PERSON TO GIVE UP THE PERSON'S RIGHT TO DUE PROCESS UNDER THE LAW.

Sec. 8. Title 28, chapter 5, article 4, Arizona Revised Statutes, is amended by adding sections 28-1602, 28-1603, 28-1604, 28-1605, 28-1606, 28-1607 and 28-1608, to read:

28-1602. Photo enforcement systems; public records request

LOCATIONS OF ALL PHOTO ENFORCEMENT SYSTEMS IN USE FOR ANY PURPOSE ON A SPECIFIC DAY SHALL BE MADE AVAILABLE TO THE PUBLIC, PURSUANT TO A PUBLIC RECORDS REQUEST OR THROUGH ELECTRONIC MEDIUM, OR BOTH, NO LATER THAN THIRTY DAYS BEFORE THEY ARE USED FOR ANY PURPOSE. THIS STATE, POLITICAL SUBDIVISIONS OF THIS STATE OR ISSUING AGENCIES, OR THEIR AGENTS, HAVE FIVE DAYS TO RESPOND TO A PUBLIC RECORDS REQUEST FOR THIS INFORMATION. FAILURE TO PROVIDE THIS INFORMATION AS PRESCRIBED BY THIS SECTION SHALL CAUSE ALL ENFORCEMENT EVIDENCE COLLECTED FROM UNSCHEDULED OR NOT PROPERLY DISCLOSED LOCATIONS TO BE VOID AND INADMISSIBLE IN COURT. IF COMPLAINTS ARE ISSUED FROM PHOTO ENFORCEMENT SYSTEMS OUTSIDE OF THESE DISCLOSURE REQUIREMENTS, A DRIVER HAS THE RIGHT TO BRING A CAUSE OF ACTION AGAINST THE ISSUING AGENCY. COMPLAINTS FOR FAILURE TO FULFILL PUBLIC RECORDS REQUESTS ACCORDING TO THIS SECTION SHALL PROVIDE JUST CAUSE TO BELIEVE THE AGENCY HAS INTENTIONALLY AVOIDED THE PUBLIC RECORDS REQUEST LAW, AND A COURT SHALL AWARD CIVIL REMEDIES TO THE REQUESTING PARTY, INCLUDING ATTORNEY FEES AND LEGAL COSTS.

28-1603. Photo enforcement recordings; privacy; violation; classification

RECORDINGS OF INNOCENT PERSONS BY PHOTO ENFORCEMENT SYSTEMS SHALL NOT BE REVIEWED, DISCLOSED OR DISCOVERED FOR ANY OTHER PURPOSE BY ANY ENTITY. THESE RECORDINGS MUST BE KEPT AS PRIVATE INFORMATION, PROTECTED UNDER ALL CURRENT STATE AND FEDERAL PRIVACY LAWS. THIS INFORMATION MAY NOT BE SOLD,



1 BARTERED, SHARED OR DISCLOSED. AN ENTITY OR INDIVIDUAL WHO VIOLATES THIS  
2 SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR AND MAY ALSO BE SUBJECT TO CIVIL  
3 ACTION BY A PERSON SHOWING HARM, DIRECT OR INDIRECT, FROM THE INAPPROPRIATE  
4 HANDLING OF THE PERSON'S PRIVATE INFORMATION. DATA COLLECTED THAT IS NOT  
5 FOUND TO BE LINKED TO A VIOLATION OF THE LAW SHALL BE DESTROYED WITHIN NINETY  
6 DAYS AFTER COLLECTION.

7 28-1604. Photo enforcement systems; validity of evidence;  
8 officer discretion

9 A. A PERSON RECEIVING A COMPLAINT OR NOTICE OF VIOLATION RESULTING  
10 FROM A PHOTO ENFORCEMENT SYSTEM SHALL BE ASSUMED NOT RESPONSIBLE OR INNOCENT  
11 UNTIL PROVEN RESPONSIBLE OR GUILTY. DRIVING PRIVILEGES MAY NOT BE  
12 RESTRICTED, PUNISHMENT MAY NOT BE IMPOSED, A VIOLATION MAY NOT BE REPORTED TO  
13 ANY PARTY AND CIVIL PENALTIES OR FINES MAY NOT BE IMPOSED UNLESS THE SWORN  
14 OFFICER WHO WITNESSES AND ATTESTS THAT THIS TITLE HAS BEEN COMPLIED WITH AND  
15 THAT THE OFFICER HAS WITNESSED THE VIOLATION TESTIFIES ON THE APPOINTED COURT  
16 DATE AS SCHEDULED IN THE PROPERLY ISSUED COMPLAINT OR NOTICE OF VIOLATION AND  
17 CONVINCES THE COURT THAT THE EVIDENCE PROVES THAT THE PERSON IS RESPONSIBLE  
18 FOR OR GUILTY OF THE VIOLATION. THERE SHALL BE NO DEFAULT FINDING IN ANY  
19 OTHER CASE AGAINST THE PERSON, WHETHER OR NOT THE PERSON IS PRESENT IN COURT  
20 PERSONALLY, WITH OR WITHOUT REPRESENTATION.

21 B. A PERSON RECEIVING A COMPLAINT OR NOTICE OF VIOLATION RESULTING  
22 FROM A PHOTO ENFORCEMENT SYSTEM SHALL BE PROVIDED A PHONE NUMBER IN THE  
23 ORIGINAL COMPLAINT OR NOTICE OF VIOLATION TO SPEAK DIRECTLY TO THE SWORN  
24 OFFICER ATTESTING TO THE VALIDITY OF THE EVIDENCE AND THE COMPLAINT IN ORDER  
25 TO DISCUSS THE EVIDENCE PROVIDED AND THE DETAILS SURROUNDING THE EVENT TO  
26 FURTHER HELP THE SWORN OFFICER DETERMINE IF A COMPLAINT OR NOTICE OF  
27 VIOLATION IS WARRANTED. THE SWORN OFFICER SHALL HAVE THE DISCRETION, ON  
28 CONSIDERATION OF THE INFRACTION AND SURROUNDING ENVIRONMENTAL DETAILS,  
29 INCLUDING THE CONTENTS OF THE DISCUSSION WITH THE ACCUSED, MAY DISMISS THE  
30 COMPLAINT. THE REPORT SHALL SHOW THAT THE OFFICER'S OPINION IS THAT THE  
31 PERSON WAS ACTING AND HANDLING THE PERSON'S VEHICLE IN A PRUDENT MANNER UNDER  
32 THE CIRCUMSTANCES. IF THE ACTION IS TO BE MAINTAINED, THE OFFICER SHALL  
33 APPEAR IN COURT AND ENTER THIS INFORMATION INTO OFFICIAL COURT RECORDS ALONG  
34 WITH A STATEMENT THAT THE COMPLAINT OR NOTICE OF VIOLATION WAS DISMISSED.  
35 THE COURT SHALL ACCEPT THE FINDINGS OF THE SWORN OFFICER AND ENTER THE  
36 ADJUSTMENT TO THE RECORD, LINKED TO THE ORIGINAL COMPLAINT OR NOTICE OF  
37 VIOLATION THAT IS DISMISSED. THIS RECORD SHALL NOT BE SENT TO ANY OTHER  
38 ENTITY AND SHALL BE USED ONLY FOR PROGRAM REVIEW BY THE ISSUING AGENCY OR THE  
39 COURT IN THE FUTURE. BOTH THE COURT AND THE ISSUING AGENCY RETAIN THE RIGHT  
40 TO DISMISS THE COMPLAINT OR NOTICE OF VIOLATION WITHOUT A COURT HEARING IF IT  
41 IS DETERMINED THAT THE COMPLAINT OR NOTICE OF VIOLATION WAS ISSUED IN ERROR  
42 OR NOT ACCORDING TO THIS TITLE. HOWEVER, NO RECORD OF THE DECISION TO  
43 DISMISS MAY BE MAINTAINED UNLESS ALL DETAILS OF THE DISMISSAL ARE ENTERED  
44 INTO THE COURT RECORD ON THE SCHEDULED COURT DATE AS STATED IN THE ORIGINAL  
45 COMPLAINT OR NOTICE OF VIOLATION.

1           28-1605. Process servers; photo enforcement citations; notices  
2                           of violation

3           A COMPLAINT OR NOTICE OF VIOLATION THAT IS ISSUED FOR A VIOLATION OF  
4 ARTICLE 3 OR 6 OF THIS CHAPTER AND THAT RESULTS FROM A PHOTO ENFORCEMENT  
5 SYSTEM SHALL BE SERVED BY A LICENSED PROCESS SERVER OR THE COMPLAINT OR  
6 NOTICE OF VIOLATION SHALL BE DISMISSED. IF A LICENSED PROCESS SERVER FAILS  
7 TO PROPERLY SERVE A COMPLAINT OR NOTICE OF VIOLATION RESULTING FROM A PHOTO  
8 ENFORCEMENT SYSTEM, THE PROCESS SERVER OF RECORD SHALL LOSE THE PROCESS  
9 SERVER'S LICENSE AS PRESCRIBED BY LAW. A PERSON SHALL NOT BE FOUND  
10 RESPONSIBLE IN DEFAULT IF THE COMPLAINT OR NOTICE OF VIOLATION IS NOT  
11 PROPERLY SERVED AND SHALL NOT BE CHARGED A FEE OR AN INCREASED PENALTY TO  
12 COVER THE COST OF SERVICE. A RECORD OF THE COMPLAINT OR NOTICE OF VIOLATION  
13 IN ASSOCIATION WITH THE DRIVER'S RECORD SHALL NOT BE MAINTAINED IF THE  
14 COMPLAINT OR NOTICE OF VIOLATION WAS NOT PROPERLY SERVED. A RECORD MAY BE  
15 MAINTAINED BY THE ISSUING AGENCY SOLELY FOR THE PURPOSE OF TRACKING  
16 STATISTICS OR EVALUATING PERFORMANCE OF PROCESS SERVICE VENDORS, OR BOTH, IF  
17 THE RECORD DOES NOT IDENTIFY THE PERSON OR PROVIDE ANY DISCOVERABLE DATA  
18 RELATING TO THE ORIGINAL COMPLAINT OR NOTICE OF VIOLATION.

19           28-1606. Photo enforcement detected violations; evidence

20           A. IF A VIOLATION OF CHAPTER 3, ARTICLE 3 OR 6 OF THIS TITLE IS  
21 DETECTED BY A PHOTO ENFORCEMENT SYSTEM AND THE VIOLATION IS NOT CLEARLY  
22 EVIDENCED IN THE STILL PHOTOS MAILED WITH THE COMPLAINT OR NOTICE OF  
23 VIOLATION, THE SUPPORTING VIDEO EVIDENCE THAT CLEARLY SHOWS THE INFRACTION  
24 MUST ACCOMPANY THE COMPLAINT OR NOTICE OF VIOLATION PHOTOS IN THE SAME  
25 MAILING. THE FORMAT OF THE EVIDENCE SHALL BE IN A MANNER THAT ALLOWS A  
26 PERSON ACCESS TO THE VIDEO EVIDENCE WITHOUT UNDO EFFORT. THE ACCEPTABLE  
27 FORMAT AS OF THE EFFECTIVE DATE OF THIS SECTION IS A STANDARD DIGITAL  
28 VERSATILE DISC. IF TECHNOLOGY MAKES THIS FORMAT OBSOLETE, THE FORMAT USED  
29 SHALL BE SHOWN BY MARKET STUDIES TO BE ACCESSIBLE TO AT LEAST NINETY PER CENT  
30 OF THE PUBLIC.

31           B. THIS STATE OR POLITICAL SUBDIVISIONS OF THIS STATE SHALL NOT SEND  
32 OR ISSUE IN ANY MANNER COMPLAINT OR NOTICES OF VIOLATIONS RESULTING FROM A  
33 PHOTO ENFORCEMENT SYSTEM TO A PERSON WITHOUT HAVING FIRST SENT ALL EVIDENCE  
34 OF THE VIOLATION TO THE PERSON EXCEPT THAT THIS STATE OR THE POLITICAL  
35 SUBDIVISIONS OF THIS STATE MAY INCLUDE ALL EVIDENCE OF THE VIOLATION IN THE  
36 INITIAL COMPLAINT OR NOTICE OF VIOLATION.

37           C. IF MORE THAN ONE VEHICLE IS VISIBLE IN THE PHOTO AND IT IS NOT  
38 CLEARLY OBVIOUS WHICH VEHICLE TRIGGERED THE PHOTO ENFORCEMENT SYSTEM, THE  
39 PHOTO EVIDENCE ALONE IS NOT SUFFICIENT TO DETERMINE AN INFRACTION BY ANY ONE  
40 DRIVER IN THE PHOTO AND THE COMPLAINT OR NOTICE OF VIOLATION SHALL NOT BE  
41 ENTERED, PROCESSED OR ISSUED.

1           28-1607. Law enforcement: photo radar: burden of proof

2           LAW ENFORCEMENT OFFICERS WHO ISSUE COMPLAINTS OR NOTICES OF VIOLATION  
3 AS A RESULT OF A PHOTO ENFORCEMENT SYSTEM HAVE THE BURDEN TO PROVE THAT THE  
4 EQUIPMENT USED TO RECORD EVIDENCE WAS PROPERLY CALIBRATED DAILY AND THAT THE  
5 SIGNAGE REQUIREMENTS PRESCRIBED BY SECTION 28-654 WERE MET.

6           28-1608. Failure to comply with photo enforcement system laws

7           FAILURE OF THIS STATE OR POLITICAL SUBDIVISIONS OF THIS STATE, OR THEIR  
8 AGENTS, TO STRICTLY COMPLY WITH THIS TITLE WHEN USING A PHOTO ENFORCEMENT  
9 SYSTEM PROVIDES GROUNDS FOR REMEDIES TO THE ACCUSED, INCLUDING AT LEAST ALL  
10 ATTORNEY FEES, LEGAL COSTS, MEDICAL BILLS AND LOSS OF INCOME. ADDITIONALLY,  
11 THE COURT MAY AWARD PAIN AND SUFFERING OR PUNITIVE DAMAGES, OR BOTH, AS  
12 DETERMINED BY THE COURT.

13           Sec. 9. Section 28-3392, Arizona Revised Statutes, is amended to read:

14           28-3392. Defensive driving school; eligibility

15           A. A court:

16           1. Shall allow an individual who is issued a citation for a civil  
17 traffic moving violation pursuant to chapter 3, articles 2, 3, 4 and 6  
18 through 15 of this title or a local civil traffic ordinance relating to the  
19 same subject matter to attend a defensive driving school, INCLUDING AN ONLINE  
20 DEFENSIVE DRIVING SCHOOL, for the purposes provided in this article.

21           2. Except as prescribed in subsection C of this section, may allow an  
22 individual who is issued a citation for a violation of section 28-701.02 to  
23 attend a defensive driving school.

24           B. A person who attends a defensive driving school pursuant to this  
25 article is not eligible to attend a defensive driving school again within  
26 twenty-four months from the day of the last violation for which the person  
27 was authorized by this article to attend a defensive driving school.

28           C. Notwithstanding subsection A of this section:

29           1. An individual who commits a civil or criminal traffic violation  
30 resulting in death or serious physical injury is not eligible to attend a  
31 defensive driving school, except that the court may order the individual to  
32 attend a defensive driving school in addition to another sentence imposed by  
33 the court on an adjudication or admission of the traffic violation.

34           2. If a commercial driver license holder is found guilty or  
35 responsible for a moving violation, the court may require the violator to  
36 attend defensive driving school as an element of sentence, but may not  
37 dismiss the conviction or finding of responsibility and shall report the  
38 conviction or finding of responsibility to the department as prescribed in  
39 section 28-1559. A commercial driver license holder is not eligible for the  
40 defensive driving diversion program.

41           Sec. 10. Short title

42           This act may be cited as the "2009 Photo Enforcement Accused Bill of  
43 Rights."